

ERGO

BUDGET 2025 | INDIRECT TAX PROPOSALS





Introduction

The Union Budget 2025 – 2026 brings with it a host of amendments, in law and duty rates to customs and GST laws. The changes are intended to provide a fillip to domestic manufacturing, reduce tax slabs, increase value addition and reduce compliance burdens as also avoid unnecessary litigation. Additionally, targeted programs for controlled delivery for specified goods have been introduced. One adverse development concerns a retrospective amendment to input tax credit, which was subject to litigation for the past six (6) years. Broadly, the proposed amendments carry a positive sentiment for the trade and industry. However, there may be unintended consequences for trade and industry arising out of the fine print of the amendments.

Customs – legislative changes

Timebound finalisation of provisional assessments

The process of provisional assessment in Section 18 of the Customs Act is proposed to be streamlined by granting power to the Deputy Commissioner of Customs or Assistant Commissioner of Customs to provisionally assess goods themselves rather than issuing directions to cause such provisional assessments.

Additionally, there is a proposal to introduce a ceiling of two (2) years to finalise provisional assessments which is subject to an extension of one (1) year for justifiable reasons. An exception has been created to the said ceilings for specified reasons which include, ongoing dispute proceedings on a similar issue or information requests from foreign sources through channels such as the Mutual Legal Assistance Treaty. In such a situation, it is mandatory for the customs department to inform the applicant who has sought provisional assessment.

[*Clause 87 of the Finance Bill, 2025*]

KCO Comment:

This is a trade facilitation measure and will augur well as it introduces certainty in the process. Importers and exporters have been subjected to situations where provisional assessments have been sought to be finalised after a decade¹. The introduction of a ceiling (*with specific and limited reasons for extensions*) is expected to bring greater efficiency and predictability to the assessment process.

Voluntary revision of import and export entries in Bill(s) of Entry or Shipping Bill(s)

A new provision (*Section 18A*) is proposed to be introduced allowing importers and exporters to voluntarily revise declarations made in Bill(s) of Entry or Shipping Bills, post clearance from customs control. Rules and regulations providing conditions, prescriptions and procedural aspects are yet to be released in the public domain.

The entries as revised will be treated as a self-assessment by the importer or exporter and require payment of short – paid duty with interest; or result in a refund claim in cases of excess payment of duty.

¹ *Sri Exports Imports vs AC Customs, Hyderabad [(2024) 25 CENTAX 258 (Telangana)]*



Further, the proper officer may verify the revisions sought or made and re-assess customs duty in select cases, primarily based on risk evaluation parameters as may be adopted.

The option to seek a voluntary revision is unavailable in certain factual circumstances, for e.g., where investigations are ongoing, or the goods are already provisionally assessed.

[Clause 88 of the Finance Bill, 2025]

KCO Comment:

This proposed amendment appears to be a legislative overruling of the judgment of the Supreme Court in *ITC Limited*². Per this judgment (as also earlier precedents), it was incumbent on an importer or exporter to first challenge an assessment by way of an appeal and thereafter, lodge a claim for refund of excess customs duty paid. The proposed amendment reduces the time for an importer or exporter to realise the refund of excess customs duties paid.

Effectively, now an importer or exporter has three options to seek corrections in the entries for import or export, viz., (i) a challenge by way of an appeal; (ii) an amendment under Section 149 of the Customs Act or; (iii) a revision as stated above. The option of revision is broader in its application as compared to an amendment as the latter is limited to situations where documentary evidence was in existence prior to the import or export activity, which is not the case in a revision.

However, this proposed insertion can be a double-edged sword for an importer or exporter. Any declarations made for seeking a revision can potentially be termed as an offence attracting Section 111 of the Customs Act and consequent penalties. Therefore, importers and exporters seeking revisions should adopt a careful and calibrated approach. While the budget speech indicates that penalties will not be imposed, it will augur well for corresponding amendments or necessary administrative clarifications so as to mitigate any concerns for trade and industry.

As of date, any differential integrated GST paid pursuant to a finalisation or revision (as above) is unavailable as ITC in cases where such payments are made manually or pursuant to orders passed by the customs department. It would have been helpful for a clarification or amendment to GST law to include availability of ITC arising pursuant to a finalisation of provisional assessment or a revision.

Associated changes to limitations for filing refund claims pursuant to the revision (Section 18A, clause 88) or amendment (Section 149)

An explanation in Section 27(1) of the Customs Act to clarify that time limit for claiming a refund arising from revision proceedings under Clause 88 of the Finance Bill, 2025 or amendment proceedings under Section 149 of the Customs Act, shall be 1 (one) year from the date of payment of duty or interest.

[Clause 89 of the Finance Bill, 2025]

KCO Comment:

There were no statutory limitation periods prescribed for refunds arising as a result of revision or amendment proceedings. The proposed explanation seeks to introduce a time limit for refunds arising as a consequence of the aforementioned proceedings.

There can be situations where an application for an amendment of a Bill of Entry under Section 149 is pending for more than 1 (one) year from the date of payment of customs duty. In such a scenario, the

² 2019 (368) ELT 216 (SC)



privilege to seek an amendment is essentially rendered ineffective in spite of a right to refund arising out of a legally valid proceeding.

Likewise, the Customs Act provides for different mechanisms for assessment / re-assessments under Sections 17, 18, 18A (*proposed*), 28 and 149. Importers will have to take abundant precautions to ensure that refunds arising as a result of revision and / or amendments do not get barred on account of limitation. This explanation may see potential litigation in the future as has occurred in the past for Section 149/ amendment processes³.

Relevant date for issuance of notice for recovery of duty under revised entry in Section 18A

Corresponding to the introduction of the revision process, the statutory period of limitation for demanding any short-paid duties or unpaid duties (*i.e., any additional duties beyond the already deposited duties*) under Section 28 of the Customs Act is proposed to be commenced from the date of payment of differential customs duty or interest.

[Clause 90 of the Finance Bill, 2025]

Abolition of Settlement Commission and Constitution of an Interim Board for Settlement of Customs Cases:

There is a proposal to abolish the CCESC constituted under Section 32 of the Central Excise Act with effect from 1 April 2025. Pending applications for settlement of cases as of 31 March 2025 shall be dealt with by the "Interim Boards" for Settlement. A corresponding amendment has also been brought in to the proposed Section 31A of the Central Excise Act to constitute the 'Interim Board for Settlement' and 'pending application' (*Refer to amendments in Central Excise Act*).

All powers of the Settlement Commission will be vested with the Interim Board for Settlement. The procedure largely remains as earlier, save and except for a proposed amendment to Section 127C of the Customs Act, which allows the Interim Board for Settlement to extend the date of passing settlement order(s) by a period of 12 (twelve) months from the date of its constitution, provided such order for extension is to be passed within 3 (three) months of the constitution of the Interim Board.

[Clauses 91 through 97 of the Finance Bill, 2025]

Customs – rate movements

Budget proposals for tariff related changes are with a view to further support domestic manufacturing, increase local value addition, promote export competitiveness and simplify administrative burdens. The changes include rationalising and simplifying the customs duty rate structure by reducing the number of tariff slabs and cesses applicable. A few tariff entries have been amended to align the First Schedule of the Customs Tariff Act with the Harmonised System of Nomenclature (2022).

Full exemptions and concessions on BCD on imports of critical minerals (cobalt, tungsten, copper, molybdenum and tin ores), lithium-ion battery scrap and other key inputs have been extended. This will support domestic manufacturing and reduce supply-chain inefficiencies and improve financial performance as also generate employment to a host of key downstream industries. Similarly, the textile sector benefits from new exemptions on shuttle-less looms. In electronics, the duty rate changes reflect the 'Make in India' initiative by way of two-pronged approach viz., increasing duties on intermediate final

³ *Megamet Steels Private Limited vs CCE [2022 (9) TMI 754]*



products and decreasing duties on inputs, raw materials and capital goods (Interactive Flat Panel Displays and Open Cell parts as an illustration). There is a specific push towards EVs by way of reducing duties in a host of items, with a similar approach also being adopted for mobile phones. The shipping sector sees continuation BCD exemptions for a period of ten more years. Export sectors such as handicrafts, leather, aircraft related MRO services have also been blessed with benefits.

Notably, concessions have been pruned, and tariff rates have been increased on a few items where India has sufficient domestic manufacturing capabilities. For Specific tariff rate movements, please refer to the below:

BCD rate movements	Appendix 1
Amendments to Exemption / Concessions Notifications for BCD	Appendix 2
Amendments in tariff rate without change in effective rate of BCD	Appendix 3
AIDC & SWS rate movements	Appendix 4

Amendment to IGCRD Rules

The IGCRD Rules are applicable to quite a few exemptions / concessional duty notifications which require an importer to file returns, maintain records of production, utilisation and output activities. In terms of the amendments to the IGCRD Rules, the return filing frequency has been reduced from monthly to quarterly reporting. Additionally, the period for utilisation of imported goods by job workers of the importer has been increased from 6 (six) months to 1 (one) year.

KCO Comment:

The relaxation in the IGCRD Rules is a welcome move as it grants greater flexibility in the manufacturing process.

Goods and Services Tax – legislative changes

The changes proposed to GST laws are pursuant to recommendations of the GST Council, which have been explained below:

Plugging the gap in ISD mechanism

Pursuant to the proposed amendment an ISD has been allowed to make payments of GST on supplies which attract tax on a reverse charge basis on inter-state supplies which was earlier restricted to intra-state supplies.

[Clause 116(i) & 120 of the Finance Bill, 2025]

KCO Comment:

This proposed amendment brings equivalence between receipt of services by an ISD from within the state (amendments carried out in the previous Finance Act, 2024) and from outside the state. Given that the ISD mechanism would become mandatory with effect from 1 April 2025, the proposed amendment is to plug an evident omission. The rules and forms prescribing payment mechanism and distribution thereof by an ISD would also have to be updated to align with the proposed amendment.



Addition of 'local fund' and 'municipal fund' to resolve ambiguities

Amendments are proposed to define the terms 'local fund' and 'municipal fund'. 'Local fund' has been defined to mean a fund under the management or control of a local-self-government which discharges civic functions in relation to Panchayat and is vested with the powers to levy and collect and appropriate taxes or duties or fees, amongst others. 'Municipal fund' is similar to the definition of 'Local Fund', with the difference being that it relates to a Metropolitan area or Municipal area.

[Clause 116(ii) of the Finance Bill, 2025]

KCO Comment:

The proposed amendment is to resolve any ambiguity in respect of the scope of exemption on services provided to a local authority as provided in Notification No. 12/2017-Central Tax (Rate) dated 28 June 2017.

Deletion of Time of Supply provision in respect of vouchers

Section 12(4) and Section 13(4) of the CGST Act which pertains to determination of time of supply in respect of supply of vouchers is proposed to be omitted.

[Clause 117 & 118 of the Finance Bill, 2025]

KCO Comment:

These amendments are pursuant to the judgment of the High Court of Karnataka in *M/s Premier Sales Promotion v Union of India & Ors*⁴ which held that a voucher being an instrument for payment, is akin to money and therefore is not 'goods' in terms of the CGST Act and hence not taxable. This judgement was effectively reiterated vide *Circular No. 243 / 37 / 2024 - GST* dated 31 December 2024, wherein it was stated that vouchers are 'actionable claims' and hence, transactions in vouchers are not exigible to GST. Therefore, these amendments, by removing references to the time of supply of vouchers, are in line with the foregoing.

Retrospective Amendment to Section 17(5)(d)

Section 17(5)(d) of the CGST Act is proposed to be amended by way of substituting the phrase '*plant or machinery*' with '*plant and machinery*' with retrospective effect from 1 July 2017.

[Clause 119 of the Finance Bill, 2025]

KCO Comment:

This proposed amendment is a legislative overruling of the judgement of the Supreme Court in *Chief Commissioner v Safari Retreats Private Limited*⁵, as was also recommended by the GST Council. The judgement was beneficial to the real estate and infrastructure sector and therefore its overturning by way of this proposed legislative exercise is an adverse development. The retrospectivity of the amendment is open to judicial scrutiny. The retrospectivity of the proposed amendment will increase disputes between the department and taxpayers.

⁴ (2023 – VIL – GST – 67 – Kar)

⁵ 2024 (23) CENTAX 62 (SC)



No reduction of liability based on credit notes unless ITC reversed by the recipient:

The proviso to Section 34(2) of the CGST Act is proposed to be substituted to the effect that output tax liability shall not be reduced pursuant to a credit note, unless the ITC as attributable to such credit note has been reversed by the recipient.

[Clause 121 of the Finance Bill, 2025]

KCO Comment:

This amendment has also been proposed pursuant to the recommendations of the GST Council in its 55th meeting. Effectively, the proposed amendment seeks to replace the certification system by a supplier as prescribed vide, *Circular No. 212 / 6 / 2024 - GST dated 26 June 2024* with a live system wherein the effect of the credit note in the GST returns shall only be given if ITC has been reversed by the recipient. This will necessitate businesses to reevaluate their transactions with customers specially in respect of trade discounts, for e.g. quantity / volume, quality discounts or preferred dealership programs.

Additional conditions / restrictions for furnishing returns in Form GSTR-3B:

The proposed amendment to Section 39 of the CGST Act seeks to broaden the delegated powers of the Central Government to introduce additional conditions and restrictions in respect of Form GSTR-3B. This was hitherto limited to only fixation of due date to file Form GSTR-3B.

[Clause 123 of the Finance Bill, 2025]

KCO Comment:

It should be noted that the proposed amendment is with respect to Form GSTR-3B and not Form GSTR-4 (under composition scheme), Form GSTR-5 (for non-resident taxable person), Form GSTR-7 (for ISD), and Form GSTR-7 (TDS return).

Pre-deposit in case of appeal involving only penalty amount:

Section 107(6) and Section 112(8) of the CGST Act is proposed to be amended whereby appellate proceedings in matters involving only penalty will also require a pre-deposit of 10% of the penalty amount determined.

[Clauses 124 and 125 of the Finance Bill, 2025]

KCO Comment:

The proposed amendment brings the pre-deposit requirements in respect of appeals at par with the Customs Act and erstwhile Central Excise Act and Finance Act. By way of these amendments for all matters involving a dispute concerning penalty, a mandatory pre-deposit of 10% shall apply for preferring an appeal before the first appellate authority, and an additional 10% for an appeal before the GST appellate tribunal. This includes matters concerning detention / seizure of goods or conveyances.

Track and trace mechanism:

A new Section 148A is proposed to be inserted in the CGST Act for introduction of a track and trace mechanism and identification of chain of custody for goods, as may be specified and by way of a 'unique identification marking'. Any non-compliance with the requirements of this proposed insertion will attract a penalty of INR 100,000 or 10% of the tax payable on such goods, whichever is higher.

[Clause 116(iii), 126 & 127 of the Finance Bill, 2025]



KCO Comment:

This amendment has been proposed pursuant to the recommendation of the GST Council in its 55th meeting. While the goods to be covered under this mechanism are yet to be notified, it will likely cover evasion prone commodities such as tobacco products. This mechanism is similar to the track and trace mechanism prevailing in various states for tracking of alcoholic liquor for human consumption. A useful parallel can be drawn from the Customs Act, where specified goods were subject to additional valuation norms as also controlled delivery.

Aligning transactions involving the supply of goods stored in SEZ/FTWZ:

The supply of goods stored in an SEZ or FTWZ to any person, prior to the clearance of such goods for export or to the Domestic Tariff Area, is proposed to be considered neither a supply of goods nor a supply of services. This proposal shall be carried out retrospectively with effect from 01 July 2017 through the insertion of clause (aa) in paragraph 8 of Schedule III of the CGST Act.

[Clause 128 & 129 of the Finance Bill, 2025]

KCO Comment:

This proposal aligns transactions involving the supply of goods stored in SEZ/FTWZ with the existing provisions in GST for transactions in customs bonded warehouses, given that they are treated as being outside India for fiscal purposes. However, the amendments as proposed also specify that no refund will be available in situations where tax has been paid, which may be subject to judicial scrutiny.

Central Excise – legislative changes

Date of implementation of additional duty of excise on unblended diesel extended to 1 April 2026:

The Central Government has deferred the date of implementation of additional duty of excise of INR 2 per litre on unblended HSD intended for retail sale from 1 April 2025 to 1 April 2026 vide Notification No. 01/2025-Central Excise dated 1 February 2025, which brings amendments to Notification No. 11/2017-Central Excise dated 30 June 2017.

Replacement of Central Excise and Service Tax Settlement Commission with the Interim Board for Settlement w.e.f. 1 April 2025

The Finance Bill, 2025 proposes to abolish the CCESC constituted under Section 32 of the Central Excise Act, 1944 with effect from 1 April 2025. The pending applications as of 31 March 2025, will be dealt by the Interim Boards for Settlement. In this regard, various amendments are proposed in the Central Excise Act, 1944 as follows:

- Section 31 is being amended to define 'Interim Board for Settlement' and 'pending application'.
- A new Section 31A will be inserted to establish one or more Interim Boards to process the pending applications. Each Interim Board will consist of three members, each at the rank of Chief Commissioner or above. Every pending application shall be dealt by the Interim Board from the stage at which such pending application stood immediately before its constitution.
- Sections 32A, 32B, 32C and 32D laying down the jurisdiction, power and operations of the CCESC will cease to apply after 1 April 2025 and no new applications shall be made under section 32E on or after 1 April 2025.



- Section 32F is proposed to be amended to substitute the expression 'Settlement Commission' with 'Interim Board' so that the specified procedure on receipt of the application under section 32E shall apply to the Interim Boards. Additionally, a new sub-section is being introduced to allow the Interim Board, within three months of its constitution, to extend the time limit for disposing of pending applications by up to twelve months from its constitution, with reasons to be recorded in writing.
- The powers of the CCESC as provided in Sections 32G, 32-I, 32J, 32K, 32L, 32M, 32-O and 32P are being amended to provide that on and after 1 April 2025, the powers and functions of the CCESC under these sections shall be exercised by the Interim Boards.

[Clause 99 through 115 of the Finance Bill, 2025]

Service Tax - Retrospective exemption on reinsurance services under certain schemes

Services provided or agreed to be provided by insurance companies by way of reinsurance services under the Weather Based Crop Insurance Scheme and the Modified National Agricultural Insurance Scheme are proposed to be exempted from service tax retrospectively for the period commencing from 1 April 2011 and ending with 30 June 2017. Further, refund of such service tax which has been collected, but which would not have been so collected, had such exemption been in force at all material times, can be made and such refund application should be filed within a period of 6 (six) months from the date on which the Finance Bill, 2025 receives the President's assent.

[Clause 130 of the Finance Bill, 2025]

KCO Comment:

Under the erstwhile Service Tax regime, exemption from payment of Service Tax vis-à-vis service of insurance in relation to the specified schemes was provided under Notification No. 58/2010-S.T. dated 21 December 2010 and Notification No. 12/2012-S.T., dated 17 March 2012.

This exemption was subject to the fact that the services of general insurance in relation to the specified schemes was approved by the Government of India and was implemented by Ministry of Agriculture.

This exemption has now been extended to "reinsurance companies" and is expected to bring big respite to various public and private re-insurance firms, including major corporations such as General Insurance Corporation of India and New India Assurance, against service tax notices for the past period proposing tax demands of about INR 10 billion.



List of abbreviations:

Abbreviation	Meaning
AIDC	Agriculture Infrastructure and Development Cess
BCD	Basic Customs Duty
CBIC	Central Board of Indirect Taxes and Customs
CCESC	Customs and Central Excise Settlement Commission
CGST Act	Central Goods and Services Tax Act, 2017
Central Excise Act	Central Excise Act, 1944
Customs Act	Customs Act, 1962
Customs Tariff Act	Customs Tariff Act, 1975
EV	Electric Vehicle
Finance Act	Chapter V of the Finance Act, 1994
Finance Bill, 2025	Finance Bill, 2025 (Bill no. 14 of 2025)
FTWZ	Free Trade Warehousing Zone
GST	Goods and Services Tax
GST Council	Goods and Services Tax Council
HSD	High Speed Diesel
IGCRD Rules	Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022
ISD	Input Services Distributor
ITC	Input Tax Credit
IGST Act	Integrated Goods and Services Tax Act, 2017
MRO	Maintenance, Repair and Overhauling
SEZ	Special Economic Zone
SWS	Social Welfare Surcharge
TDS	Tax Deducted at Source



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